
Introduced by Senators Burton, Chesbro, and Ducheny

December 2, 2002

An act to amend Section ~~5097.94~~ of 815.3 of the Civil Code, to amend Sections 65040.2, 65351, 65453, and 65560 of, and to add Sections 65351.1 and 65562.5 to, the Government Code, to amend Sections 7050.5 and 7054 of the Health and Safety Code, and to amend Sections 5097.9, 5097.77, 5097.91, 5097.92, 5097.94, 5097.96, 5097.97, 5097.98, 5097.99, 5097.995, and 21084 of, to add Sections 5097.10, 5097.96.1, 5097.96.2, 5097.96.3, 5097.96.4, 5097.96.5, and 21097 to, and to amend the heading of Chapter 1.75 (commencing with Section 5097.9) of Division 5 of, the Public Resources Code, relating to ~~Native American sacred places~~ Traditional Tribal Cultural Sites, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 18, as amended, Burton. ~~Native American sacred places~~ Traditional Tribal Cultural sites.

(1) Existing law ~~authorizes~~ *establishes* the Native American Heritage Commission *and authorizes the commission* to bring an action to prevent severe and irreparable damage to, or assure appropriate access for Native Americans to, a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property. ~~Existing law requires that if the court finds that severe and irreparable damage will occur or that appropriate access will be denied, and appropriate mitigation measures are not available, it shall issue an injunction, unless it finds, on clear and convincing evidence, that the public interest and necessity require otherwise.~~

This bill would *establish the Traditional Tribal Cultural Site (TTCS) Register and would require the commission to develop, maintain, and administer it, as specified. The bill would declare various powers and duties of the commission. The bill would establish procedures for challenging and reviewing the commission's decisions, including procedures to protect the confidentiality of any information that would create a risk of harm to a TTCS. The bill would exempt the TTCS Register from disclosure as a public record. The bill would make it a misdemeanor to intentionally release information about a TTCS, knowing that it is required to be held confidential, thereby creating a new crime and imposing a state-mandated local program.*

(2) *The existing California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also generally requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA provides some exemptions from its requirements for specified projects.*

This bill would create additional exemptions from CEQA and prohibit other exemptions for certain projects involving a TTCS. The bill would specify certain unique procedures that a lead agency must follow when a project involves a TTCS. By imposing these additional duties on lead agencies, this bill would impose a state-mandated local program.

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs



so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(2)

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 5097.94 of the Public Resources Code~~

2 SECTION 1. (a) *The Legislature finds and declares all of the*
3 *following:*

4 (1) *Native Americans have used, and continue to use, natural*
5 *settings, referred to as “Traditional Tribal Cultural Sites”, in the*
6 *conduct of ceremonies and spiritual practices that provide the*
7 *moral and ethical foundation of Native societies and are essential*
8 *elements in tribal cultural traditions.*

9 (2) *Native American places of spiritual and ceremonial*
10 *importance reflect the tribes’ continuing cultural ties to the land*
11 *and to their ancestral heritage.*

12 (3) *These sites are used for prayer, vision quests,*
13 *medicine-making, and traditional ceremonies. They are*
14 *considered holy and sacrosanct by California’s Native American*
15 *people. Many are significant to the tribes’ cultural society and to*
16 *their continued existence as a people.*

17 (4) *To further and perpetuate the cultural tradition and*
18 *spiritual practices of California tribes, these Traditional Tribal*
19 *Cultural Sites should be preserved whenever possible.*

20 (5) *California had the largest aboriginal population in North*
21 *America before contact with non-Native Americans. Yet,*
22 *California Native American tribes suffered the greatest losses from*
23 *termination, removal and assimilation policies, including the loss*
24 *of a majority of their lands and Traditional Tribal Cultural Sites.*
25 *This devastation debilitated tribal cultural identity and threatened*
26 *the survival of California Native American people.*

27 (6) *In addition to the lingering effects of these historic policies,*
28 *the continued loss of Traditional Tribal Cultural Sites in the past*
29 *150 years has caused further debilitating impacts on the cultural*
30 *traditions and tribal identity of California Native Americans.*



1 ***(b) In recognition of Native American tribal sovereignty and***
2 ***the unique relationship between California state government and***
3 ***California tribal governments, it is the intent of the Legislature, in***
4 ***enacting this act, to accomplish all of the following:***

5 ***(1) Recognize that Traditional Tribal Cultural Sites are***
6 ***essential elements in tribal cultural tradition and identity.***

7 ***(2) Provide protection for Traditional Tribal Cultural Sites***
8 ***through listing on a confidential registry overseen by the Native***
9 ***American Heritage Commission, and establish a legal framework***
10 ***by which sites listed on, or eligible for listing on, the Traditional***
11 ***Tribal Cultural Sites Registry may be defended and preserved.***

12 ***(3) Protect the access to and ability of Native Americans to***
13 ***engage in cultural and traditional practices in a meaningful way***
14 ***at Traditional Tribal Cultural Sites through the facilitation of***
15 ***access agreements and other methods of providing legal***
16 ***assurances to both land owners and Native American tribes.***

17 ***(4) Require meaningful consultation between public agencies,***
18 ***project proponents, and Native American tribes at the earliest***
19 ***possible point in the environmental review of a proposed***
20 ***development project that might adversely impact a Traditional***
21 ***Tribal Cultural Site.***

22 ***(5) Provide for the development of treatment agreements and***
23 ***mutually acceptable mitigation agreements, and promote the***
24 ***avoidance of development of Traditional Tribal Cultural Sites.***

25 ***SEC. 2. Section 815.3 of the Civil Code is amended to read:***
26 ***815.3. Only the following entities or organizations may***
27 ***acquire and hold conservation easements:***

28 ***(a) ~~Tax-exempt~~ A tax-exempt nonprofit organization qualified***
29 ***under Section 501(c)(3) of the Internal Revenue Code and***
30 ***qualified to do business in this state ~~which~~, that has as its primary***
31 ***purpose the preservation, protection, or enhancement of land in its***
32 ***natural, scenic, historical, agricultural, forested, or open-space***
33 ***condition or use.***

34 ***(b) The state or ~~any~~ a city, county, city and county, district, or***
35 ***other state or local governmental entity, if otherwise authorized to***
36 ***acquire and hold title to real property and if the conservation***
37 ***easement is voluntarily conveyed. No local governmental entity***
38 ***may condition the issuance of an entitlement for use on the***
39 ***applicant's granting of a conservation easement pursuant to this***
40 ***chapter.***



1 (c) A *federally-recognized California Indian tribe or a*
2 *nonfederally-recognized California Indian tribe, band, or nation*
3 *listed on the Native American Contact List maintained by the*
4 *Native American Heritage Commission pursuant to subdivision*
5 *(d) of Section 5097.94 of the Public Resources Code.*

6 SEC. 3. Section 65040.2 of the Government Code is amended
7 to read:

8 65040.2. (a) In connection with its responsibilities under
9 subdivision (l) of Section 65040, the office shall develop and adopt
10 guidelines for the preparation and content of the mandatory
11 elements required in city and county general plans by Article 5
12 (commencing with Section 65300) of Chapter 3 of Division 1 of
13 Title 7. For purposes of this section, the guidelines prepared
14 pursuant to Section 50459 of the Health and Safety Code shall be
15 the guidelines for the housing element required by Section 65302.
16 In the event that additional elements are hereafter required in city
17 and county general plans by Article 5 (commencing with Section
18 65300) of Chapter 3, the office shall adopt guidelines for those
19 elements within six months of the effective date of the legislation
20 requiring those additional elements.

21 (b) The office may request from each state department and
22 agency, as it deems appropriate, and the department or agency
23 shall provide, technical assistance in readopting, amending, or
24 repealing the guidelines.

25 (c) The guidelines shall be advisory to each city and county in
26 order to provide assistance in preparing and maintaining their
27 respective general plans.

28 (d) The guidelines shall contain the guidelines for addressing
29 environmental justice matters developed pursuant to Section
30 65040.12.

31 (e) The guidelines shall contain advice including
32 recommendations for best practices to allow for collaborative land
33 use planning of adjacent civilian and military lands and facilities.
34 The guidelines shall encourage enhanced land use compatibility
35 between civilian lands and any adjacent or nearby military
36 facilities through the examination of potential impacts upon one
37 another.

38 (f) The guidelines shall contain advice for addressing the
39 effects of civilian development on military readiness activities
40 carried out on all of the following:

- 1 (1) Military installations.
- 2 (2) Military operating areas.
- 3 (3) Military training areas.
- 4 (4) Military training routes.
- 5 (5) Military airspace.

6 (6) Other territory adjacent to those installations and areas.

7 (g) *The guidelines shall contain advice for consulting with*
8 *Native American tribes and the Native American Heritage*
9 *Commission for the preservation of sites listed in the Traditional*
10 *Tribal Cultural Site Register established under subdivision (a) of*
11 *Section 5097.96 of the Public Resources Code, including*
12 *procedures for protecting the confidentiality of information*
13 *concerning the specific identity, location, character or use of those*
14 *sites. “Native American tribe” and “Traditional Tribal Cultural*
15 *Site Register” shall have the meanings provided in Section*
16 *5097.10 of the Public Resources Code.*

17 ~~(g)~~

18 (h) The office shall provide for regular review and revision of
19 the guidelines established pursuant to this section.

20 SEC. 4. *Section 65351 of the Government Code is amended to*
21 *read:*

22 65351. During the preparation or amendment of the general
23 plan, the planning agency shall provide opportunities for the
24 involvement of citizens, public agencies, public utility companies,
25 *Native American tribes identified on the Native American Contact*
26 *List maintained by the Native American Heritage Commission*
27 *pursuant to subdivision (d) of Section 5097.94 of the Public*
28 *Resources Code, and civic, education, and other community*
29 *groups, through public hearings and any other means the city or*
30 *county deems appropriate.*

31 SEC. 5. *Section 65351.1 is added to the Government Code, to*
32 *read:*

33 65351.1. *Prior to adoption, revision, amendment, or update*
34 *of a city or county’s general plan, the city or county shall consult*
35 *with the Native American Heritage Commission and any*
36 *appropriate Native American tribes identified on the Native*
37 *American Contact List maintained by the commission for the*
38 *purpose of preserving the sites listed in the Traditional Tribal*
39 *Cultural Site Register (“TTCS Register”) that are located within*
40 *the city or county’s jurisdiction. An “appropriate Native American*



1 *tribe*” and “*TTCS Register*” shall have the meanings provided in
2 *Section 5097.10 of the Public Resources Code*. Consistent with the
3 *guidelines developed by the Office of Planning and Research*
4 *pursuant to Section 65040.2, cities and counties shall protect the*
5 *confidentiality of information concerning the specific identity,*
6 *location, character, or use of the listed sites.*

7 *SEC. 6. Section 65453 of the Government Code is amended to*
8 *read:*

9 65453. (a) A specific plan shall be prepared, adopted, and
10 amended in the same manner as a general plan, except that a
11 specific plan may be adopted by resolution or by ordinance and
12 may be amended as often as deemed necessary by the legislative
13 body. *Adoption or amendment of a specific plan shall be subject*
14 *to the consultation requirements of Section 65351.1.*

15 (b) A specific plan may be repealed in the same manner as it is
16 required to be amended.

17 *SEC. 7. Section 65560 of the Government Code is amended to*
18 *read:*

19 65560. (a) “*Local open-space plan*” is the open-space
20 element of a county or city general plan adopted by the board or
21 council, either as the local open-space plan or as the interim local
22 open-space plan adopted pursuant to Section 65563.

23 (b) “*Open-space land*” is ~~any~~ a parcel or area of land or water
24 that is essentially unimproved and devoted to an open-space use
25 as defined in this section, and that is designated on a local, regional
26 or state open-space plan as any of the following:

27 (1) Open space for the preservation of natural resources,
28 including, but not limited to, *sites listed in the Native American*
29 *Traditional Tribal Cultural Site Register established under*
30 *Section 5097.96 of the Public Resources Code*, areas required for
31 the preservation of plant and animal life, including habitat for fish
32 and wildlife species; areas required for ecologic and other
33 scientific study purposes; rivers, streams, bays and estuaries; areas
34 adjacent to military installations, military training routes, and
35 restricted airspace that can provide additional buffer zones to
36 military activities and complement the resource values of the
37 military lands; and coastal beaches, lakeshores, banks of rivers and
38 streams, and watershed lands.

39 (2) Open space used for the managed production of resources,
40 including, but not limited to, forest lands, rangeland, agricultural



1 lands and areas of economic importance for the production of food
2 or fiber; areas required for recharge of ground water basins; bays,
3 estuaries, marshes, rivers and streams which are important for the
4 management of commercial fisheries; and areas containing major
5 mineral deposits, including those in short supply.

6 (3) Open space for outdoor recreation, including, but not
7 limited to, areas of outstanding scenic, historic and cultural value;
8 areas particularly suited for park and recreation purposes,
9 including access to lakeshores, beaches, and rivers and streams;
10 and areas ~~which~~ *that* serve as links between major recreation and
11 open-space reservations, including utility easements, banks of
12 rivers and streams, trails, and scenic highway corridors.

13 (4) Open space for public health and safety, including, but not
14 limited to, areas ~~which~~ *that* require special management or
15 regulation because of hazardous or special conditions such as
16 earthquake fault zones, unstable soil areas, flood plains,
17 watersheds, areas presenting high fire risks, areas required for the
18 protection of water quality and water reservoirs, and areas
19 required for the protection and enhancement of air quality.

20 *SEC. 8. Section 65562.5 is added to the Government Code, to*
21 *read:*

22 *65562.5. When designating open space for the preservation of*
23 *a site listed in the Traditional Tribal Cultural Site Register*
24 *established under Section 5097.96 of the Public Resources Code,*
25 *cities and counties shall consult with the appropriate Native*
26 *American tribe, as defined by Section 5097.10 of the Public*
27 *Resources Code, for the purposes of determining the level of*
28 *confidentiality required to protect the specific identity, location,*
29 *character, or use of the listed site, and developing proper treatment*
30 *of the site in any corresponding management plan, if one will be*
31 *developed for the listed area.*

32 *SEC. 9. Section 7050.5 of the Health and Safety Code is*
33 *amended to read:*

34 7050.5. (a) Every person who knowingly mutilates or
35 disinters, wantonly disturbs, or willfully removes any human
36 remains in or from any location other than a dedicated cemetery
37 without authority of law is guilty of a misdemeanor, except as
38 provided in Section 5097.99 of the Public Resources Code. ~~The~~
39 ~~provisions of this~~ *This subdivision shall does not apply to any*
40 *person carrying out an agreement developed pursuant to*



1 subdivision ~~(l)~~(o) of Section 5097.94 of the Public Resources
2 Code or to any person authorized to implement Section 5097.98
3 of the Public Resources Code.

4 (b) In the event of discovery or recognition of any human
5 remains in any location other than a dedicated cemetery, there shall
6 be no further excavation or disturbance of the site or any nearby
7 area reasonably suspected to overlie adjacent remains until the
8 coroner of the county in which the human remains are discovered
9 has determined, in accordance with Chapter 10 (commencing with
10 Section 27460) of Part 3 of Division 2 of Title 3 of the Government
11 Code, that the remains are not subject to the provisions of Section
12 27491 of the Government Code or any other related provisions of
13 law concerning investigation of the circumstances, manner and
14 cause of any death, and the recommendations concerning the
15 treatment and disposition of the human remains have been made
16 to the person responsible for the excavation, or to his or her
17 authorized representative, in the manner provided in Section
18 5097.98 of the Public Resources Code. The coroner shall make his
19 or her determination within two working days from the time the
20 person responsible for the excavation, or his or her authorized
21 representative, notifies the coroner of the discovery or recognition
22 of the human remains.

23 (c) If the coroner determines that the remains are not subject to
24 his or her authority and if the coroner recognizes the human
25 remains to be those of a Native American, or has reason to believe
26 that they are those of a Native American, he or she shall contact,
27 by telephone within 24 hours, the Native American Heritage
28 Commission.

29 *SEC. 10. Section 7054 of the Health and Safety Code is*
30 *amended to read:*

31 7054. (a) (1) Except as authorized pursuant to the sections
32 referred to in subdivision (b), every person who deposits or
33 disposes of any human remains in any place, except in a cemetery,
34 is guilty of a misdemeanor.

35 (2) Every licensee or registrant pursuant to Chapter 12
36 (commencing with Section 7600) or Chapter 19 (commencing
37 with Section 9600) of Division 3 of the Business and Professions
38 Code and the agents and employees of the licensee or registrant,
39 or any unlicensed person acting in a capacity in which a license
40 from the Cemetery and Funeral Bureau is required, who, except as



1 authorized pursuant to the sections referred to in subdivision (b),
 2 deposits or disposes of any human remains in any place, except in
 3 a cemetery, is guilty of a misdemeanor that shall be punishable by
 4 imprisonment in a county jail not exceeding one year, by a fine not
 5 exceeding ten thousand dollars (\$10,000), or both that
 6 imprisonment and fine.

7 (b) Cremated remains may be disposed of pursuant to Sections
 8 7054.6, 7116, 7117, and 103060.

9 (c) Subdivision (a) of this section ~~shall~~ *does* not apply to the
 10 reburial of Native American remains under an agreement
 11 developed pursuant to subdivision ~~(l)~~(o) of Section 5097.94 of the
 12 Public Resources Code, or implementation of a recommendation
 13 or agreement made pursuant to Section 5097.98 of the Public
 14 Resources Code.

15 *SEC. 11. The heading of Chapter 1.75 (commencing with*
 16 *Section 5097.9) of Division 5 is amended to read:*

17
 18 CHAPTER 1.75. NATIVE AMERICAN HISTORICAL, CULTURAL, AND
 19 SACRED TRADITIONAL TRIBAL CULTURAL SITES.

20
 21 *SEC. 12. Section 5097.9 of the Public Resources Code is*
 22 *amended to read:*

23 5097.9. ~~No~~ A public agency; and ~~no~~ a private party using or
 24 occupying public property, or operating on public property, under
 25 a public license, permit, grant, lease, or contract made on or after
 26 July 1, 1977, ~~shall~~ *may not* in any manner whatsoever interfere
 27 with the free expression or exercise of Native American religion
 28 as provided in the United States Constitution and the California
 29 Constitution; nor shall any such agency or party cause ~~severe or~~
 30 *significant and* irreparable damage to ~~any~~ a Native American
 31 sanctified cemetery, place of worship, religious or ceremonial site,
 32 or sacred shrine located on public property, except on a clear and
 33 convincing showing that the public interest and necessity so
 34 require. The provisions of this chapter shall be enforced by the
 35 commission, pursuant to Sections 5097.94 and 5097.97.

36 ~~The provisions of this~~ *This* chapter ~~shall~~ *may* not be construed
 37 to limit the requirements of the *California* Environmental Quality
 38 Act of 1970, ~~Division~~ (Division 13 (commencing with Section
 39 ~~21000~~ 21000)).



1 ~~The public property of all cities, counties, and city and county~~
2 ~~located within the limits of the city, county, and city and county,~~
3 ~~except for all parklands in excess of 100 acres, shall be exempt~~
4 ~~from the provisions of this chapter. Nothing in this section shall,~~
5 ~~however, nullify protections for Indian cemeteries under other~~
6 ~~statutes.~~

7 *SEC. 13. Section 5097.10 is added to the Public Resources*
8 *Code, to read:*

9 *5097.10. As used in this chapter, the following terms have the*
10 *following meanings:*

11 *(a) “Appropriate Native American tribe” means a Native*
12 *American tribe determined by the commission to have attached*
13 *traditional tribal cultural significance to the TTCS at issue.*

14 *(b) “Commission” means the Native American Heritage*
15 *Commission.*

16 *(c) “Consultation” means the meaningful and timely process of*
17 *seeking, discussing, and considering carefully the views of others,*
18 *in a manner that is cognizant of all parties’ cultural values, and*
19 *where feasible, seeking agreement. Consultation between*
20 *government agencies and Native American tribes shall be*
21 *conducted in a way that is mutually respectful of each party’s*
22 *sovereignty. Consultation shall also recognize the tribe’s potential*
23 *need for confidentiality with respect to sites that have traditional*
24 *tribal cultural significance.*

25 *(d) “Consulting parties” means the appropriate Native*
26 *American tribes, owners of property within the site’s boundaries,*
27 *the project proponent, and public agencies with jurisdiction over*
28 *the area in which the effects of a project may occur or having*
29 *principal responsibility for carrying out or approving a project.*
30 *Other individuals or organizations with a demonstrated interest in*
31 *the project, due to the nature of their legal, cultural, or economic*
32 *relation to the project or affected property, may participate at the*
33 *commission’s discretion. The commission shall exercise that*
34 *discretion in accordance with criteria adopted by the commission.*

35 *(e) “Determination” means a final decision issued by the*
36 *commission, including a decision regarding the listing of a site in*
37 *the TTCS Register, whether a TTCS may be affected by a proposed*
38 *project, or whether a proposed project may result in a substantial*
39 *adverse change to a TTCS.*



1 (f) “Eligible for listing in the TTCS Register” means a site that
2 is not listed in the TTCS Register, but if the commission were to
3 consider the site for listing pursuant to Section 5097.96, it would
4 likely find that the site meets the criteria for listing. The
5 determination of eligibility may be delegated to the executive
6 secretary. The executive secretary shall comply with criteria
7 adopted pursuant to subdivision (b) of Section 5097.96 and with
8 procedures set forth in Section 5097.96.1.

9 (g) “Gathering site” means an area where traditional food,
10 plants, or other materials or cultural objects, including, but not
11 limited to, baskets, tools, ropes, nets, ceremonial items, clothing,
12 and personal adornments that are used in a traditional practice by
13 a Native American tribe, are gathered, collected, assembled, or
14 maintained.

15 (h) “Lead agency” has the same meaning as the definition in
16 Section 21067.

17 (i) “Native American Contact List” means the list developed
18 and maintained by the commission pursuant to subdivision (d) of
19 Section 5097.94 that identifies those Native American tribes to be
20 notified and consulted pursuant to this chapter and the
21 requirements of the California Environmental Quality Act
22 (Division 13 (commencing with Section 21000)).

23 (j) “Native American tribe” means a federally-recognized
24 California Indian tribe listed on the Federal Register and any
25 nonfederally-recognized California Indian tribe, band, or nation
26 listed on the Native American Contact List maintained by the
27 commission.

28 (k) “Project” has the same meaning as the definition in Section
29 21065.

30 (l) “Traditional Tribal Cultural Site” or “TTCS” means a site
31 listed in, or determined by the commission to be eligible for listing
32 in, the TTCS Register based on the criteria for listing established
33 by the commission through regulations adopted pursuant to
34 subdivision (b) of Section 5097.96. These criteria shall identify a
35 TTCS as a site that is associated with the traditional beliefs,
36 practices, lifeways, and ceremonial activities of a Native American
37 tribe. A TTCS must be a reasonably delineated physical location
38 identifiable by physical characteristics. The TTCS Register is in no
39 way intended to infringe on Native American tribes’ sovereign
40 rights to define their own sites of religious and cultural



1 *significance for their own purposes. The fact that a tribe has not*
2 *nominated a site for inclusion in the TTCS Register may not be*
3 *evidence that the site is not sacred or significant.*

4 *(m) “Traditional Tribal Cultural Site Register” or “TTCS*
5 *Register” means the Native American Traditional Tribal Cultural*
6 *Site Register established and maintained by the commission*
7 *pursuant to Section 5097.96.*

8 *SEC. 14. Section 5097.91 of the Public Resources Code is*
9 *amended to read:*

10 5097.91. *There is in state government a Native American*
11 *Heritage Commission, consisting of nine members appointed by*
12 *the Governor with the advice and consent of the Senate. The*
13 *executive secretary of the commission shall be appointed by the*
14 *Governor.*

15 *SEC. 15. Section 5097.92 of the Public Resources Code is*
16 *amended to read:*

17 5097.92. ~~At least five of the nine~~ *(a) The nine member*
18 *commission shall be composed of all the following members:*

19 *(1) Six members shall be elders, traditional people, or spiritual*
20 *leaders of California Native American tribes, nominated by Native*
21 *American organizations, tribes, or groups within the state. ~~The~~*
22 ~~*executive secretary of the commission shall be appointed by the*~~
23 ~~*Governor. Two members shall be from the northern region of the*~~
24 ~~*state, two members from the central region, and two from the*~~
25 ~~*southern region.*~~

26 *(2) Two members shall be recognized professionals in one or*
27 *more of the following disciplines: ethnohistory, archaeology,*
28 *anthropology, ethnography, or other related disciplines.*

29 *(3) One member shall represent the public or possess expertise*
30 *in fields of expertise the Governor deems necessary or desirable*
31 *to enable the commission to carry out its responsibilities.*

32 *(b) Each member of the commission shall have one vote. Except*
33 *as provided in subdivision (c), a majority of the total appointed*
34 *membership of the commission shall constitute a quorum. Any*
35 *action taken by the commission under this chapter requires a*
36 *majority vote of the members present at the meeting of the*
37 *commission, with a quorum being present, unless otherwise*
38 *specifically provided for in this chapter.*

39 *(c) (1) The commission may appoint regional committees of*
40 *three members of the commission to carry on investigations,*



1 *inquiries, or hearings pursuant to Sections 5097.96, 5097.96.1,*
2 *5097.96.2, and 5097.96.3. Each regional committee shall be*
3 *comprised of the two tribal commission members representing the*
4 *region where the subject TTCS or proposed TTCS is located. The*
5 *determination of the three member committee shall become the*
6 *decision of the commission unless appealed to the full commission.*

7 (2) *Appeals of decisions by the regional committee may be filed*
8 *by any party to the procedure within 30 days of issuance of the*
9 *regional committee's decision.*

10 (3) *All actions of the regional committee are subject to Section*
11 *5097.96.5.*

12 *SEC. 16. Section 5097.94 of the Public Resources Code is*
13 *amended to read:*

14 5097.94. The commission shall have the following powers
15 and duties:

16 (a) *For purposes of the California Environmental Quality Act*
17 *(Division 13 (commencing with Section 21000)) only, the*
18 *commission shall constitute a trustee agency having jurisdiction*
19 *by law over Native American archaeological resources and*
20 *TTCSs. The trustee agency status of the commission does not*
21 *impair or alter any sovereign rights that a Native American tribe*
22 *may have with respect to any of those resources.*

23 (b) To identify and catalog places of special religious or social
24 significance to Native Americans, and known graves and
25 cemeteries of Native Americans on private lands. The
26 identification and cataloguing of known graves and cemeteries
27 shall be completed on or before January 1, 1984. The commission
28 shall notify landowners on whose property ~~such~~ *those* graves and
29 cemeteries are determined to exist, and shall identify the Native
30 American-~~group~~ *tribe* most likely descended from those Native
31 Americans who may be interred on the property.

32 ~~(b)~~

33 (c) To make recommendations relative to ~~Native American~~
34 ~~sacred places~~ *sites listed in the TTCS Register* that are located on
35 private lands, *and* are inaccessible to Native Americans, and have
36 cultural significance to ~~Native Americans~~ *American tribes* for
37 acquisition by the state or other public agencies for the purpose of
38 facilitating or assuring access thereto by *the appropriate* Native
39 ~~Americans~~ *American tribes.*



1 (d) To develop and maintain the Native American Contact List.
2 That list shall identify those Native American tribes eligible to be
3 notified or consulted pursuant to this chapter and the requirements
4 of the California Environmental Quality Act (Division 13
5 (commencing with Section 21000)). The list shall include all
6 Native American tribes, as defined in subdivision (j) of Section
7 5097.10 in California. For purposes of this chapter, the
8 commission shall develop criteria to identify and include Native
9 American tribes that do not have federal recognition.

10 ~~(e)~~

11 (e) To make recommendations to the Legislature relative to
12 procedures ~~which~~ that will voluntarily encourage private property
13 owners to preserve and protect ~~sacred places in a natural state sites~~
14 listed in the TTCS Register and to allow appropriate access to
15 Native American ~~religionists tribes for ceremonial or spiritual~~
16 traditional tribal cultural activities.

17 ~~(d) To appoint necessary clerical staff.~~

18 (f) To employ and prescribe duties for staff members as
19 necessary to carry out the provisions of this chapter.

20 (g) To employ an attorney at law and assistant attorneys as
21 necessary. The attorney shall act as the attorney and legal adviser
22 of the commission, including representing the commission before
23 the courts. The written consent of the Attorney General is not
24 required for the commission to be represented by a
25 commission-employed attorney in court. However, the commission
26 may request representation from the Attorney General.

27 ~~(e)~~

28 (h) To accept grants or donations, real or in kind, to carry out
29 the purposes of this chapter.

30 ~~(f)~~

31 (i) To make recommendations to the Director of Parks and
32 Recreation and the California Arts Council relative to the
33 California State Indian Museum and other Indian matters touched
34 upon by department programs.

35 ~~(g)~~

36 (j) To bring an action to prevent ~~severe~~ significant and
37 irreparable damage to, or assure appropriate access for Native
38 Americans to, a Native American sanctified cemetery, place of
39 worship, religious or ceremonial site, ~~or~~ sacred shrine, or sites
40 listed in the TTCS Register located on public property, pursuant to



1 Section 5097.97. If the court finds that ~~severe~~ *significant* and
2 irreparable damage will occur or that appropriate access will be
3 denied, and appropriate mitigation measures are not available, it
4 shall issue an injunction, unless it finds, on clear and convincing
5 evidence, that the public interest and necessity require otherwise.
6 The Attorney General shall represent the commission, *if requested*
7 *to do so under subdivision (g)*, and the state in litigation concerning
8 affairs of the commission, unless the Attorney General has
9 determined to represent the agency against whom the
10 commission's action is directed, in which case the commission
11 shall be authorized to *represent itself or* employ other counsel *as*
12 *needed*. In any action to enforce the provisions of this subdivision
13 the commission shall introduce evidence showing that ~~such a~~
14 cemetery, place, site, or shrine has been historically regarded as a
15 sacred or sanctified place by Native American people and
16 represents a place of unique historical and cultural significance to
17 an Indian tribe or community.

18 ~~(h)~~

19 *(k)* To request and utilize the advice and service of all federal,
20 state, local, and regional agencies.

21 ~~(i)~~

22 *(l)* To assist Native Americans *tribes* in obtaining appropriate
23 access to ~~sacred places and protection for sites listed in the TTCS~~
24 *Register* that are located on public *or private* lands for ceremonial
25 or spiritual activities.

26 ~~(j)~~

27 *(m)* To assist state agencies in any negotiations with agencies
28 of the federal government for the protection of ~~Native American~~
29 ~~sacred places TTCSs~~ that are located on federal lands.

30 ~~(k)~~

31 *(n)* To mediate, upon application of either of the parties,
32 disputes arising between landowners and known descendents
33 relating to the treatment and disposition of Native American
34 human burials, skeletal remains, and items associated with Native
35 American burials.

36 ~~The agreements shall provide protection to Native American~~
37 ~~human burials and skeletal remains from vandalism and~~
38 ~~inadvertent destruction and provide for sensitive treatment and~~
39 ~~disposition of Native American burials, skeletal remains, and~~



1 ~~associated grave goods consistent with the planned use of, or the~~
2 ~~approved project on, the land.~~

3 ~~(l)~~

4 (o) To assist interested landowners in developing agreements
5 with appropriate Native American ~~groups~~ *tribes* for *leaving in*
6 *place*, treating or disposing of, with appropriate dignity, ~~of~~ the
7 human remains and any items associated with Native American
8 burials. *The agreements shall provide protection to Native*
9 *American human burials and skeletal remains from vandalism and*
10 *inadvertent destruction and provide, where remains are not left in*
11 *place, for sensitive treatment and disposition of Native American*
12 *burials, skeletal remains, and associated grave goods consistent*
13 *with the planned use of, or the approved project on, the land. The*
14 *commission shall adopt guidelines governing the process and*
15 *requirements for Native American monitoring.*

16 (p) *To adopt criteria and procedures for the TTCS Register and*
17 *oversee the administration of the TTCS Register.*

18 (q) *To oversee the administration of, and participate in the*
19 *consultation process pursuant to, this chapter and adopt, as*
20 *necessary, consultation process criteria and procedures.*

21 (r) *To assist Native American tribes in obtaining access to and*
22 *protection for gathering sites that are not included in the TTCS*
23 *Register, and to develop criteria to assist in the identification of*
24 *feasible or potentially feasible measures to avoid or mitigate*
25 *potential impacts to gathering sites that may occur as a result of*
26 *a project.*

27 (s) *To develop and maintain an informal site records check*
28 *service to project proponents, interested landowners, or*
29 *prospective landowners for the purpose of providing limited*
30 *information on the presence or absence of a site that is listed in the*
31 *TTCS Register, and that may be impacted by a proposed project,*
32 *land acquisition, or land management practice on land in which*
33 *the project proponent, interested landowner, or prospective land*
34 *owner has a direct or imminent financial interest. The Native*
35 *American Heritage Commission shall identify the appropriate*
36 *Native American tribes on the Native American Contact List for*
37 *the site.*

38 (t) *To adopt rules and regulations, as necessary, to carry out the*
39 *provisions of this chapter in conformity with the provisions of*
40 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*



1 *Division 3 of Title 2 of the Government Code. The commission may*
2 *not begin listing TTCSs on the TTCS Register, nor make*
3 *determinations about whether a site is eligible to be listed in the*
4 *TTCS Register, until it has adopted regulations to implement*
5 *subdivision (b) of Section 5097.96. In drafting and promulgating*
6 *rules and regulations that may have substantial effects on the*
7 *Native American tribes, the commission shall consult with, and*
8 *allow for, active participation by the Native American tribes.*

9 *SEC. 17. Section 5097.96 of the Public Resources Code is*
10 *amended to read:*

11 ~~5097.96. The commission may prepare an inventory of~~
12 ~~Native American sacred places that are located on public lands and~~
13 ~~shall review the current administrative and statutory protections~~
14 ~~accorded to such places. The commission shall submit a report to~~
15 ~~the Legislature no later than January 1, 1979, in which the~~
16 ~~commission shall report its findings as a result of these efforts and~~
17 ~~shall recommend such actions as the commission deems necessary~~
18 ~~to preserve these sacred places and to protect the free exercise of~~
19 ~~the Native American religions.~~

20 *(a) The Traditional Tribal Cultural Site Register or TTCS is*
21 *hereby established and shall be maintained and administered by*
22 *the commission. The TTCS Register is in no way intended to*
23 *infringe on Native American tribes' sovereign rights to define their*
24 *own sites of religious and cultural significance for their own*
25 *purposes. The fact that a tribe has not nominated a site for*
26 *inclusion in the TTCS Register may not be evidence that the site is*
27 *not sacred or significant.*

28 *(b) Consistent with the definition of TTCS in subdivision (l) of*
29 *Section 5097.10, the commission shall adopt regulations*
30 *establishing criteria to list sites in the TTCS Register. The*
31 *commission shall acknowledge that Native American tribes*
32 *possess special expertise in identifying TTCSs and shall consult*
33 *with them and encourage active participation in developing the*
34 *criteria consistent with subdivision (t) of Section 5097.94.*

35 *(c) The commission on its own initiative, or any appropriate*
36 *Native American tribe, may nominate a site for listing in the TTCS*
37 *Register. The commission shall adopt regulations establishing*
38 *procedures for the nomination and listing of sites in the TTCS*
39 *Register in a manner that shall protect the confidentiality concerns*



1 of Native American tribes. The procedures shall provide the
2 following:

3 (1) All requests to the commission for nomination of sites in the
4 TTCS Register shall be supported by sufficient evidence to
5 facilitate meaningful review of the request.

6 (2) Prior to acting on the nomination of a site to be added to the
7 TTCS Register, the commission shall notify the Native American
8 tribe nominating the site, all owners of property within the site's
9 boundaries, and other appropriate Native American tribes, and
10 provide not less than 30 days for written comments on the
11 nomination. The commission shall accept and consider these
12 comments and any other comments it receives during the comment
13 period, and other appropriate information in determining whether
14 to list the site in the TTCS Register.

15 (3) Except where appropriate to maintain the confidentiality of
16 information concerning the specific identity, location, character,
17 or use of the proposed TTCS, the commission may seek and
18 consider the views of the public.

19 (4) The commission may hold a hearing to accept additional
20 comments regarding the requested nomination. Any hearing by the
21 commission to accept additional comments may be closed to the
22 public to maintain the confidentiality of information concerning
23 the specific identity, location, character, or use of the site.

24 (5) The commission shall prepare proposed written findings to
25 support its determination concerning the site nominated for listing
26 in the TTCS Register. The proposed findings shall describe in
27 general terms the traditional cultural significance of the site,
28 define its boundaries, and identify any appropriate Native
29 American tribes. The commission shall provide notice of its
30 proposed determination and findings to the parties identified in
31 paragraph (2), and shall provide those parties 30 days to submit
32 written comments to the commission regarding the proposed
33 determination and findings. The commission's proposed
34 determination and findings shall constitute a final decision by the
35 commission if no comments are submitted to the commission
36 during the 30-day comment period. If written comments are
37 submitted to the commission during that comment period, the
38 commission shall consider the comments, and may modify the
39 proposed determination and findings before making a final
40 decision.

1 (d) The commission, in accordance with procedures it adopts,
2 shall provide notice of any decision to list a site in the TTCS
3 Register to the Native American tribe nominating the site, all
4 owners of property within the site's boundaries, and other
5 appropriate Native American tribes. The owner of property that
6 contains a site listed in the TTCS Register may at any time record
7 in the office of the county recorder of the county in which the site
8 is located, and the county recorder shall accept for recording, a
9 written notice of a registered TTCS in the form to be prescribed by
10 the commission. That notice may only refer generally and without
11 specificity to the identity, location, character, and use of the
12 registered TTCS on the property. Recording of a notice of a
13 registered TTCS shall satisfy any legal duty of the owner to
14 disclose material facts with respect to the registered TTCS.

15 (e) The commission shall maintain a list of the sites on the
16 TTCS Register. The list and all documents pertaining to the list
17 shall be exempt from disclosure as a public record pursuant to
18 subdivision (r) of Section 6254 of the Government Code.

19 (f) Notwithstanding subdivisions (c) and (d), the commission
20 shall develop an expedited procedure to list eligible sites identified
21 under subdivisions (g) and (h) on a priority basis in the TTCS
22 Register. The commission shall acknowledge that Native American
23 tribes possess special expertise in identifying TTCSs and shall
24 consult with them and encourage active participation in
25 developing the expedited procedure.

26 (g) Within two years of the effective date of the act that added
27 this subdivision, the commission shall evaluate the eligibility for
28 listing in the TTCS Register of any site previously identified,
29 catalogued, or listed by the commission as a site with traditional
30 cultural significance to Native Americans. If the commission
31 makes a preliminary decision not to include on the TTCS Register
32 any site previously so identified, catalogued, or listed by the
33 commission, it shall consult with the appropriate Native American
34 tribe before making a final decision.

35 (h) The commission may recommend sites listed in the TTCS for
36 listing by the State Historic Preservation Officer for inclusion in
37 the California Register. The commission may also determine that
38 a site that is listed in the National Register of Historic Places or
39 the California Register of Historical Resources may be eligible for
40 listing in the TTCS Register. In making this determination, the



1 *commission shall consult with the State Historic Preservation*
2 *Officer, and the State Historic Preservation Officer shall*
3 *cooperate and assist the commission.*

4 *(i) Any determination by the commission to list a site on the*
5 *TTCS Register shall be exempt from the California Environmental*
6 *Quality Act (Division 13 (commencing with Section 21000)).*

7 *SEC. 18. Section 5097.96.1 is added to the Public Resources*
8 *Code, to read:*

9 *5097.96.1. (a) Notwithstanding any other provisions of this*
10 *chapter, upon receipt of a timely written request for consultation*
11 *pursuant to Section 21097 by an appropriate Native American*
12 *tribe, the commission shall promptly initiate consultation to*
13 *evaluate and determine whether any TTCS may be affected by the*
14 *proposed project. In making this determination, the commission*
15 *shall examine whether the site is listed in the TTCS Register.*

16 *(b) If the site is not registered in the TTCS Register, an*
17 *appropriate Native American tribe may ask the commission for a*
18 *determination that the site is eligible for listing in the TTCS*
19 *Register. The determination of eligibility may be delegated to the*
20 *executive secretary. The executive secretary shall, if the power is*
21 *delegated by the commission, provide a signed statement*
22 *determining whether in his or her opinion the site likely meets the*
23 *criteria for listing established pursuant to subdivision (b) of*
24 *Section 5097.96. In making the determination, the executive*
25 *secretary shall comply with criteria adopted by the commission.*
26 *The executive secretary shall seek the input of, and consult with,*
27 *consulting parties in making a determination pursuant to*
28 *subdivision (c).*

29 *(c) Not later than 45 days after receiving the notice required by*
30 *subdivision (d) of Section 21097, the commission shall notify in*
31 *writing, the lead agency and any appropriate Native American*
32 *tribes that consulted with the commission pursuant to this section,*
33 *of its determination as to whether any TTCS may be affected by the*
34 *proposed project.*

35 *(d) Where the commission determines pursuant to this section*
36 *that a TTCS is not located on, or within, five miles of the site of the*
37 *proposed project, that determination shall constitute a final*
38 *decision by the commission that TTCSs are not affected by the*
39 *proposed project, and the commission's official responsibilities*
40 *under this section are fulfilled.*



1 (e) Where the commission determines that a TTCS is located on
2 or within five miles of the site of the proposed project, the
3 commission shall proceed, in accordance with Section 5097.96.2,
4 to determine whether the project will result in a substantial adverse
5 change to a TTCS. The obligation for the commission to proceed
6 in accordance with Section 5097.96.2 does not constitute
7 substantial evidence that the proposed project may result in a
8 substantial adverse change to a TTCS.

9 SEC. 19. Section 5097.96.2 is added to the Public Resources
10 Code, to read:

11 5097.96.2. (a) Not later than 75 days after notifying the lead
12 agency of its determination that a TTCS may be affected by the
13 proposed project, the commission shall notify in writing, the lead
14 agency and any appropriate Native American tribes that consulted
15 with the commission, of its determination as to whether a proposed
16 project will result in a substantial adverse change to a TTCS. For
17 purposes of this section, a substantial adverse change in a TTCS
18 means a direct or reasonably foreseeable indirect change to the
19 physical characteristics of a TTCS.

20 (b) Prior to making the determination pursuant to subdivision
21 (a), the commission shall seek the input of and consult with
22 appropriate consulting parties. The commission shall initiate that
23 consultation by providing notice within five days after making a
24 determination that a TTCS may be affected by the proposed project
25 to appropriate consulting parties. The consulting parties shall
26 have 30 days from receipt of the notice to provide written comments
27 to the commission regarding the potential for the proposed project
28 to result in a substantial adverse change to a TTCS. Except where
29 appropriate to protect the confidentiality of information
30 concerning the specific identity, location, character, or use of the
31 TTCS, the commission may seek and consider public comment and
32 input.

33 (c) The commission shall accept and consider written
34 comments submitted to the commission pursuant to subdivision
35 (b), prior to making a determination whether a proposed project
36 will result in a substantial adverse change to a TTCS. The
37 commission, in its discretion, may hold a hearing to accept
38 additional comments. A hearing by the commission to accept
39 additional comments may be closed to the public to maintain the



1 confidentiality of information concerning the specific identity,
2 location, character, or use of a TTCS.

3 (d) The commission shall prepare proposed written findings to
4 support its determination pursuant to subdivision (a). The
5 proposed findings shall describe the basis for the determination by
6 the commission. The commission shall provide notice of its
7 proposed determination and findings to the consulting parties who
8 were given notice pursuant to subdivision (b), and shall provide
9 those consulting parties with 10 days to submit written comments
10 to the commission regarding the proposed determination and
11 findings. The commission's proposed determination and findings
12 shall constitute a final decision by the commission if no comments
13 are submitted to the commission during the comment period. If
14 written comments are submitted to the commission during the
15 comment period, the commission shall consider the comments, and
16 modify the proposed determination and findings, in its discretion,
17 before making a final decision consistent with procedures adopted
18 by the commission.

19 (e) A determination by the commission pursuant to this section
20 is exempt from the California Environmental Quality Act (Division
21 13 (commencing with Section 21000)).

22 SEC. 20. Section 5097.96.3 is added to the Public Resources
23 Code, to read:

24 5097.96.3. (a) Where the commission, all appropriate Native
25 American tribes who participated in the consultation process, and
26 the project proponent agree to incorporate project changes or
27 mitigation measures that would avoid or reduce substantial
28 adverse changes to a TTCS to a less than significant level, the
29 commission shall identify those project changes or mitigation
30 measures in its findings and notice to the lead agency pursuant to
31 Section 5097.96.2.

32 (b) Where the commission, all appropriate Native American
33 tribes who participated in the consultation process, and the project
34 proponent do not agree to project changes or mitigation measures
35 that would avoid or reduce substantial adverse changes to a TTCS,
36 the commission shall identify project changes or mitigation
37 measures, if any, that would avoid or reduce substantial adverse
38 changes to a TTCS to a less than significant level in its findings and
39 notice to the lead agency pursuant to Section 5097.96.2.



1 (c) A determination by the commission pursuant to this section
2 is exempt from the California Environmental Quality Act (Division
3 13 (commencing with Section 21000)).

4 SEC. 21. Section 5097.96.4 is added to the Public Resources
5 Code, to read:

6 5097.96.4. (a) An appropriate Native American tribe
7 nominating a site to the TTCS Register, owners of property within
8 the site's boundaries, or other consulting parties may seek judicial
9 review of a final determination by the commission that a proposed
10 project will result in a substantial adverse change to a TTCS. That
11 action shall be brought as a petition for writ of mandate pursuant
12 to Section 1094.5 of the Code of Civil Procedure.

13 (b) In a proceeding, whether in a trial or appellate court,
14 challenging a determination of the commission, the court shall
15 protect the confidentiality of any information that would create a
16 risk of harm to the TTCS by disclosing, for example, its specific
17 identity, location, character, or use. If and to the extent there is a
18 risk of harm, the court shall conduct its proceedings in camera and
19 shall seal records of the proceeding and papers filed with the court.
20 In determining whether there is a risk of harm to a TTCS, the court
21 may ask the commission to file a brief addressing that issue and
22 may, in the interim, seal records and papers and conduct any
23 hearings in camera until it makes a final determination on the risk
24 of harm issue.

25 SEC. 22. Section 5097.96.5 is added to the Public Resources
26 Code, to read:

27 5097.96.5. (a) The commission shall adopt regulations
28 establishing procedures to maintain the confidentiality of
29 information concerning the specific identity, location, character,
30 or use of a TTCS.

31 (b) Notwithstanding the California Public Records Act
32 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
33 Title 1 of the Government Code), the Bagley-Keene Open Meeting
34 Act (Article 9 (commencing with Section 11120) of Chapter 1 of
35 Part 1 of Division 3 of Title 2 of the Government Code), or any
36 other law, no information obtained as a result of, or in connection
37 with, a nomination or consultation under this chapter that
38 contains a reference pertaining to the specific identity, location,
39 character, or use of a TTCS, may be released, except as provided
40 in subdivision (c). For purposes of this section, "information"



1 includes, but is not limited to, documents, records, the TTCS
2 Register itself, nomination forms, declarations, reports, maps,
3 letters, transcripts, minutes, comments, determinations, and
4 findings.

5 (c) The commission, owners of property within the site's
6 boundaries, the project proponent, the appropriate Native
7 American tribes, other consulting parties authorized under this
8 chapter, and their respective attorneys and representatives may,
9 consistent with any procedures the commission adopts, access and
10 share with each other information for the purpose of participating
11 in the consultation process pursuant to this chapter.

12 (d) A person who intentionally releases information, knowing
13 that it is required to be held confidential pursuant to this section,
14 is guilty of a misdemeanor punishable by a fine of ten thousand
15 dollars (\$10,000) or by imprisonment in the county jail for not
16 more than one year, or both.

17 (e) This section does not apply in a case in which all
18 appropriate Native American tribes waive the application of this
19 section.

20 SEC. 23. Section 5097.97 of the Public Resources Code is
21 amended to read:

22 5097.97. In the event that ~~any~~ a Native American
23 organization, tribe, group, or individual advises the commission
24 that a proposed action by a public agency may cause ~~severe or~~
25 *significant and* irreparable damage to a Native American
26 sanctified cemetery, place of worship, religious or ceremonial site,
27 or sacred shrine located on public property, or may bar appropriate
28 access thereto by Native Americans, the commission shall conduct
29 an investigation as to the effect of the proposed action. Where the
30 commission finds, after a public hearing, that the proposed action
31 would result in ~~such~~ damage or interference, the commission may
32 recommend mitigation measures for consideration by the public
33 agency proposing to take ~~such~~ the action. If the public agency fails
34 to accept the mitigation measures, and if the commission finds that
35 the proposed action would do ~~severe~~ *significant and* irreparable
36 damage to a Native American sanctified cemetery, place of
37 worship, religious or ceremonial site, or sacred shrine located on
38 public property, the commission may ask the Attorney General to
39 take appropriate legal action pursuant to subdivision ~~(g)~~ (j) of
40 Section 5097.94.



1 SEC. 24. Section 5097.98 of the Public Resources Code is
2 amended to read:

3 5097.98. (a) Whenever the commission receives notification
4 of a discovery of Native American human remains from a county
5 coroner pursuant to subdivision (c) of Section 7050.5 of the Health
6 and Safety Code, it shall immediately notify those persons it
7 believes to be most likely descended from the deceased Native
8 American. The decedents may, with the permission of the owner
9 of the land, or his or her authorized representative, inspect the site
10 of the discovery of the Native American remains and may
11 recommend to the owner or the person responsible for the
12 excavation work means for treating or disposing of, with
13 appropriate dignity, the human remains and any associated grave
14 goods. The decedents shall complete their inspection and make
15 their recommendation within 24 hours of their notification by the
16 Native American Heritage Commission. The recommendation
17 may include the scientific removal and nondestructive analysis of
18 human remains and items associated with Native American
19 burials.

20 (b) Whenever the commission is unable to identify a
21 descendent, or the descendent identified fails to make a
22 recommendation, or the landowner or his or her authorized
23 representative rejects the recommendation of the descendent, and
24 the mediation provided for in subdivision ~~(k)~~ (n) of Section
25 5097.94 fails to provide measures acceptable to the landowner, the
26 landowner or his or her authorized representative shall reinter the
27 human remains and items associated with Native American burials
28 with appropriate dignity on the property in a location not subject
29 to further subsurface disturbance.

30 (c) Notwithstanding the provisions of Section 5097.9, the
31 provisions of this section, including those actions taken by the
32 landowner or his or her authorized representative to implement
33 this section and any action taken to implement an agreement
34 developed pursuant to subdivision ~~(l)~~ (o) of Section 5097.94, shall
35 be exempt from the requirements of the California Environmental
36 Quality Act (Division 13 (commencing with Section 21000)).

37 (d) Notwithstanding the provisions of Section 30244, the
38 provisions of this section, including those actions taken by the
39 landowner or his or her authorized representative to implement
40 this section, and any action taken to implement an agreement



1 developed pursuant to subdivision ~~(l)~~(o) of Section 5097.94 shall
2 be exempt from the requirements of the California Coastal Act of
3 1976 (Division 20 (commencing with Section 30000)).

4 *SEC. 25. Section 5097.99 of the Public Resources Code is*
5 *amended to read:*

6 5097.99. (a) ~~No person shall~~ A person may not obtain or
7 possess any Native American artifacts or human remains ~~which~~
8 *that* are taken from a Native American grave or cairn on or after
9 January 1, 1984, except as otherwise provided by law or in
10 accordance with an agreement reached pursuant to subdivision ~~(l)~~
11 *(o)* of Section 5097.94 or pursuant to Section 5097.98.

12 (b) ~~Any~~ A person who knowingly or willfully obtains or
13 possesses any Native American artifacts or human remains ~~which~~
14 *that* are taken from a Native American grave or cairn after January
15 1, 1988, except as otherwise provided by law or in accordance with
16 an agreement reached pursuant to subdivision ~~(l)~~ *(o)* of Section
17 5097.94 or pursuant to Section 5097.98, is guilty of a felony ~~which~~
18 *that* is punishable by imprisonment in the state prison.

19 (c) ~~Any~~ A person who removes, without authority of law, any
20 Native American artifacts or human remains from a Native
21 American grave or cairn with an intent to sell or dissect or with
22 malice or wantonness is guilty of a felony ~~which~~ *that* is punishable
23 by imprisonment in the state prison.

24 *SEC. 26. Section 5097.995 of the Public Resources Code is*
25 *amended to read:*

26 5097.995. (a) (1) Any person who unlawfully and
27 maliciously excavates upon, removes, destroys, injures, or defaces
28 a Native American historic, cultural, or sacred site, that is listed or
29 may be eligible for listing in the California Register of Historic
30 Resources pursuant to Section 5024.1, including any historic or
31 prehistoric ruins, any burial ground, any archaeological or historic
32 site, any inscriptions made by Native Americans at such a site, any
33 archaeological or historic Native American rock art, or any
34 archaeological or historic feature of a Native American historic,
35 cultural, or sacred site is guilty of a misdemeanor if the act was
36 committed with specific intent to vandalize, deface, destroy, steal,
37 convert, possess, collect, or sell a Native American historic,
38 cultural, or sacred artifact, art object, inscription, or feature, or site
39 and the act was committed as follows:

40 (A) On public land.



1 (B) On private land, by a person, other than the landowner, as
2 described in subdivision (b).

3 (2) A violation of this section is punishable by imprisonment
4 in the county jail for up to one year, by a fine not to exceed ten
5 thousand dollars (\$10,000), or by both that fine and imprisonment.

6 (b) This section does not apply to any of the following:

7 (1) Any act taken in accordance with, or pursuant to, an
8 agreement entered into pursuant to subdivision ~~(l)~~(o) of Section
9 5097.94.

10 (2) Any action taken pursuant to Section 5097.98.

11 (3) Any act taken in accordance with the California
12 Environmental Quality Act (Division 13 (commencing with
13 Section 21000)).

14 (4) Any act taken in accordance with the National
15 Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

16 (5) Any act authorized under the Z'berg-Nejedly Forest
17 Practice Act of 1973 (Chapter 8 (commencing with Section 4511)
18 of Part 2 of Division 4).

19 (6) Any action taken with respect to a conservation easement
20 in accordance with Chapter 4 (commencing with Section 815) of
21 Division 2 of the Civil Code, or any similar nonperpetual
22 enforceable restriction that has as its purpose the conservation,
23 maintenance, or provision of physical access of Native Americans
24 to one or more Native American historic, cultural, or sacred sites,
25 or pursuant to a contractual agreement for that purpose to which
26 most likely descendents of historic Native American inhabitants
27 are signatories.

28 (7) Any otherwise lawful act undertaken by the owner, or an
29 employee or authorized agent of the owner acting at the direction
30 of the owner, of land on which artifacts, sites, or other Native
31 American resources covered by this section are found, including,
32 but not limited to, farming, ranching, forestry, improvements,
33 investigations into the characteristics of the property conducted in
34 a manner that minimizes adverse impacts unnecessary to that
35 purpose, and the sale, lease, exchange, or financing of real
36 property.

37 (8) Research conducted under the auspices of an accredited
38 postsecondary educational institution or other legitimate research
39 institution on public land in accordance with applicable permitting



1 requirements or on private land in accordance with otherwise
2 applicable law.

3 *SEC. 27. Section 21084 of the Public Resources Code is*
4 *amended to read:*

5 21084. (a) The guidelines prepared and adopted pursuant to
6 Section 21083 shall include a list of classes of projects ~~which that~~
7 have been determined not to have a significant effect on the
8 environment and ~~which that~~ shall be exempt from this division. In
9 adopting the guidelines, the Secretary of the Resources Agency
10 shall make a finding that the listed classes of projects ~~referred to~~
11 ~~in this section~~ do not have a significant effect on the environment.

12 (b) ~~No~~ A project ~~which that~~ may result in damage to scenic
13 resources, including, but not limited to, trees, historic buildings,
14 rock outcroppings, or similar resources, within a highway
15 designated as an official state scenic highway, pursuant to Article
16 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of
17 the Streets and Highways Code, ~~shall may not~~ be exempted from
18 this division pursuant to subdivision (a). This subdivision does not
19 apply to improvements as mitigation for a project for which a
20 negative declaration has been approved or an environmental
21 impact report has been certified.

22 (c) ~~No~~ A project located on a site ~~which that~~ is included on any
23 list compiled pursuant to Section 65962.5 of the Government Code
24 ~~shall may not~~ be exempted from this division pursuant to
25 subdivision (a).

26 (d) The changes made to this section by Chapter 1212 of the
27 Statutes of 1991 apply only to projects for which applications have
28 not been deemed complete on or before January 1, 1992, pursuant
29 to Section 65943 of the Government Code.

30 (e) ~~No~~ A project that may cause a substantial adverse change in
31 the significance of an historical resource, as specified in Section
32 21084.1, ~~shall may not~~ be exempted from this division pursuant
33 to subdivision (a).

34 (f) *A project that may cause a substantial adverse change in a*
35 *site that is listed in the Traditional Tribal Cultural Site Register*
36 *established pursuant to Section 5097.95 may not be exempted from*
37 *this division pursuant to subdivision (a).*

38 *SEC. 28. Section 21097 is added to the Public Resources*
39 *Code, to read:*

1 21097. (a) A project that may cause a substantial adverse
2 change in a TTCS, as defined in subdivision (l) of Section 5097.10,
3 is a project that may have a significant effect on the environment.
4 For purposes of this section, a TTCS is a site listed in, or
5 determined by the Native American Heritage Commission to be
6 eligible for listing in, the Traditional Tribal Cultural Site Register
7 established under Section 5097.96. A site that is not listed in the
8 TTCS Register is not precluded from being afforded protection
9 under this division so long as the commission determines that the
10 site is eligible for listing pursuant to subdivision (b) of Section
11 5097.96.1.

12 (b) Substantial adverse change in a TTCS means a direct or
13 reasonably foreseeable indirect change to the physical
14 characteristics of a TTCS.

15 (c) For purposes of this section, “Native American tribes” and
16 “appropriate Native American tribes” have the meaning provided
17 in subdivisions (a) and (j), respectively, of Section 5097.10.

18 (d) At the time that a lead agency determines that an activity is
19 a project and is not exempt from this division, the lead agency shall
20 provide written notice of the proposed project to the Native
21 American tribes identified on the Native American Contact List
22 pursuant to subdivision (d) of Section 5097.94 and to the Native
23 American Heritage Commission. The notice shall do all of the
24 following:

25 (1) Inform Native American tribes of their right to request
26 consultation, including for a determination of a site’s eligibility for
27 listing in the TTCS Register pursuant to 5097.96.1, with the Native
28 American Heritage Commission within 20 days of the receipt of
29 notice by certified mail.

30 (2) Provide sufficient information describing the proposed
31 project, including a project map, to enable the Native American
32 tribes to consult with the commission to identify any TTCS that may
33 be affected by the proposed project.

34 (3) Include a copy of the service list.

35 (e) Upon receipt of a timely written request for consultation
36 pursuant to subdivision (d), the Native American Heritage
37 Commission shall promptly initiate consultation, consistent with
38 Section 5097.96.1, to evaluate and determine whether a TTCS may
39 be affected by the proposed project. Nothing in this section
40 precludes the Native American tribes from electing to participate



1 *through the regular public comment process afforded by this*
2 *division.*

3 *(f) The commission shall notify the lead agency and any*
4 *appropriate Native American tribes that consulted with the*
5 *commission, in writing of its determination not later than 45 days*
6 *after receiving the notice from the lead agency pursuant to*
7 *subdivision (d). Any written notice by the commission determining*
8 *that there are no TTCSs affected by the proposed project shall be*
9 *final and no further consultation is required under this division.*

10 *(g) Whenever the Native American Heritage Commission*
11 *determines that a TTCS may be affected by the proposed project*
12 *pursuant to subdivision (f), the commission shall proceed with*
13 *consultation, in accordance with Sections 5097.96.1 and*
14 *5097.96.2, to determine whether the proposed project will cause*
15 *a substantial adverse change in a TTCS, and to identify project*
16 *changes or mitigation measures that would avoid or reduce the*
17 *substantial adverse change. The commission shall notify in*
18 *writing, the lead agency and any appropriate Native American*
19 *tribes that consulted with the commission pursuant to this section,*
20 *of this determination not later than 75 days after notifying the lead*
21 *agency that a TTCS may be affected by the proposed project. Any*
22 *written notice by the commission determining that a proposed*
23 *project will not result in a substantial adverse change to a TTCS*
24 *shall constitute substantial evidence upon which the lead agency*
25 *may rely.*

26 *(h) To facilitate the consultation process, the lead agency shall,*
27 *in cooperation with the commission, arrange for a visit to the*
28 *project site by authorized representatives of appropriate Native*
29 *American tribes (as determined by the commission) if the*
30 *following conditions are met:*

31 *(1) The appropriate Native American tribe requests, in writing,*
32 *lead agency assistance to arrange for a visit to the project site.*

33 *(2) The request demonstrates that the visit is necessary either*
34 *to show the location or boundaries of a TTCS or assist in the*
35 *development of on-site mitigation measures.*

36 *(3) The request is submitted to the lead agency prior to the close*
37 *of public comment period.*

38 *(4) The lead agency secures permission from the landowner or*
39 *can escort the authorized representative onto the property within*
40 *existing authority to carry out inspections on the property.*



1 (i) Where the commission determines that a proposed project
2 will result in a substantial adverse change to a TTCS, the lead
3 agency shall do the following:

4 (1) If the project proponent, the commission, and all
5 appropriate Native American tribes who participated in the
6 consultation process agree, as a result of the consultation required
7 by subdivision (g), to incorporate changes or mitigation measures
8 that will avoid or reduce potential adverse changes to a TTCS to
9 below a level of significance, the lead agency shall conclude that
10 any adverse changes to a TTCS are less than significant. The
11 project changes or mitigation measures that provide the basis for
12 the lead agency's determination shall be identified in a
13 confidential appendix to the final environmental impact report or
14 mitigated negative declaration. The project changes or mitigation
15 measures identified in the final environmental impact report or
16 mitigated negative declaration, together with the concurrence of
17 the appropriate Native American tribes who participated in the
18 consultation process, the project proponent and the commission,
19 shall constitute substantial evidence supporting the lead agency's
20 conclusion that adverse changes in a TTCS are less than
21 significant.

22 (2) If the project proponent, the commission, and all
23 appropriate Native American tribes who participated in the
24 consultation process do not agree to changes or mitigation
25 measures, as a result of the consultation required by subdivision
26 (g), the commission shall evaluate and provide a written
27 recommendation to the lead agency identifying project changes or
28 mitigation measures that would avoid or reduce potential adverse
29 changes to a TTCS. The lead agency, when making findings
30 required by paragraph (1) of subdivision (a) of Section 21081, or
31 when adopting a mitigated negative declaration pursuant to
32 paragraph (2) of subdivision (c) of Section 21080, shall consider
33 the recommendation of the commission and adopt all feasible
34 project changes or mitigation measures necessary to avoid or
35 reduce substantial adverse changes to any TTCS identified
36 pursuant to this section.

37 (j) (1) Notwithstanding subdivision (b) of Section 21081, a
38 public agency may not approve or carry out a project that will
39 result in a substantial adverse change in a TTCS unless it has
40 provided notice to, and made a good faith effort to consult with the



1 *Native American Heritage Commission and all appropriate Native*
2 *American tribes, and unless the public agency finds that all*
3 *available means for preserving the TTCS have been considered to*
4 *the maximum extent possible.*

5 (2) *A public agency may not approve, carry out, or subsidize*
6 *with state funds a project on state lands or federal lands that will*
7 *result in a substantial adverse change in a TTCS, unless the lead*
8 *agency, based on substantial evidence in the record, does one of*
9 *the following:*

10 (A) *Makes the finding described in paragraph (1) or (2) of*
11 *subdivision (a) of Section 21081, or both, with respect to the*
12 *project's affect on the TTCS.*

13 (B) *Finds there is no legal or feasible way to accomplish the*
14 *project purpose without causing the substantial adverse change,*
15 *all feasible mitigation or avoidance measures have been*
16 *incorporated into the project, and there is an overriding*
17 *environmental, public health, or safety reason to approve the*
18 *project.*

19 *These findings may be made only after the lead agency provides*
20 *30 days notice to any appropriate Native American tribes and an*
21 *opportunity for those tribes to comment on the proposed finding.*

22 (k) *For purposes of this division, the Native American Heritage*
23 *Commission shall be considered a trustee agency having*
24 *jurisdiction by law over Native American archeological resources*
25 *and TTCSs. The trustee agency status of the commission may not*
26 *be construed to impair or alter any sovereign rights a Native*
27 *American tribe may have with respect to any of those resources.*

28 (l) *All regulatory programs certified by the Secretary for*
29 *Resources pursuant to Section 21080.5 shall comply with the*
30 *provisions of this section and any other applicable sections*
31 *pertaining to TTCSs under this division.*

32 (m) *In the case of a project described in subdivision (c) of*
33 *Section 21065, the project proponent may request, prior to the*
34 *filing of an application with the lead agency, that the lead agency*
35 *provide notice pursuant to subdivision (d).*

36 (n) *Any proceeding under this section is subject to the*
37 *confidentiality provisions of Section 5097.96.5.*

38 (o) *In all actions or proceedings brought pursuant to this*
39 *section, including the hearing of an action or proceeding on*
40 *appeal from the decision of a lower court, all courts shall protect*



1 *the confidentiality of information that would create a risk of harm*
2 *to the TTCS by disclosing, for example, its specific identity,*
3 *location, character, or use. If and to the extent there is a risk of*
4 *harm, the court shall conduct its proceedings in camera and shall*
5 *seal records of the proceeding and papers filed with the court. In*
6 *determining whether there is a risk of harm to a TTCS, the court*
7 *may ask the commission to file a brief addressing that issue and*
8 *may, in the interim, seal records and papers and conduct hearings*
9 *in camera until it makes a final determination on the risk of harm*
10 *issue.*

11 *(p) Notwithstanding Section 21177, any appropriate Native*
12 *American tribe that consulted with the Native American Heritage*
13 *Commission pursuant to this section may bring an action or*
14 *proceeding to attack, review, set aside, void, or annul the acts or*
15 *decision of a public agency pursuant to Section 21167.*

16 *(q) (1) For a project defined by subdivision (c) of Section*
17 *21065, the lead agency shall, prior to a determination pursuant to*
18 *Section 21080.1, consult with the Native American Heritage*
19 *Commission and the appropriate Native American tribes to*
20 *identify the existence of, or the probable likelihood of, Native*
21 *American human remains and associated grave goods.*

22 *(2) If, as a result of the consultation required by paragraph (1),*
23 *the lead agency determines that Native American human remains*
24 *and associated grave goods may be disturbed, the lead agency*
25 *shall ensure that the following steps are completed prior to*
26 *approval of the project:*

27 *(A) Develop an avoidance and mitigation plan in consultation*
28 *with any appropriate Native American tribes, and the Native*
29 *American Heritage Commission to prevent or minimize*
30 *destruction, removal, or reburial of the Native American human*
31 *remains and associated grave goods. The plan shall address the*
32 *potential discovery of Native American human remains and*
33 *associated grave goods, and potential reburial on-site and*
34 *disposition of cultural resources.*

35 *(B) The project proponent shall employ a Native American*
36 *monitor to monitor ground disturbance activities associated with*
37 *the proposed project in areas where Native American human*
38 *remains, associated grave goods, and cultural resources may be*
39 *discovered. Guidelines for monitoring adopted pursuant to*
40 *subdivision (o) of Section 5097.94 may be adopted by the Native*



1 *American Heritage Commission. In selecting a Native American*
2 *monitor, the project proponent shall give preference to Native*
3 *Americans with traditional ties to the project area.*

4 *SEC. 29. No reimbursement is required by this act pursuant*
5 *to Section 6 of Article XIII B of the California Constitution for*
6 *certain costs that may be incurred by a local agency or school*
7 *district because in that regard this act creates a new crime or*
8 *infraction, eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within*
11 *the meaning of Section 6 of Article XIII B of the California*
12 *Constitution.*

13 *However, notwithstanding Section 17610 of the Government*
14 *Code, if the Commission on State Mandates determines that this*
15 *act contains other costs mandated by the state, reimbursement to*
16 *local agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code. If the statewide cost of the*
19 *claim for reimbursement does not exceed one million dollars*
20 *(\$1,000,000), reimbursement shall be made from the State*
21 *Mandates Claims Fund.*

22 ~~is amended to read:~~

23 ~~5097.94. The commission shall have the following powers~~
24 ~~and duties:~~

25 ~~(a) To identify and catalog places of special religious or social~~
26 ~~significance to Native Americans, and known graves and~~
27 ~~cemeteries of Native Americans on private lands. The~~
28 ~~identification and cataloguing of known graves and cemeteries~~
29 ~~shall be completed on or before January 1, 1984. The commission~~
30 ~~shall notify landowners on whose property such graves and~~
31 ~~cemeteries are determined to exist, and shall identify the Native~~
32 ~~American group most likely descended from those Native~~
33 ~~Americans who may be interred on the property.~~

34 ~~(b) To make recommendations relative to Native American~~
35 ~~sacred places that are located on private lands, are inaccessible to~~
36 ~~Native Americans, and have cultural significance to Native~~
37 ~~Americans for acquisition by the state or other public agencies for~~
38 ~~the purpose of facilitating or assuring access thereto by Native~~
39 ~~Americans.~~



- 1 ~~(c) To make recommendations to the Legislature relative to~~
2 ~~procedures which will voluntarily encourage private property~~
3 ~~owners to preserve and protect sacred places in a natural state and~~
4 ~~to allow appropriate access to Native American religionists for~~
5 ~~ceremonial or spiritual activities.~~
- 6 ~~(d) To appoint necessary clerical staff.~~
- 7 ~~(e) To accept grants or donations, real or in kind, to carry out~~
8 ~~the purposes of this chapter.~~
- 9 ~~(f) To make recommendations to the Director of Parks and~~
10 ~~Recreation and the California Arts Council relative to the~~
11 ~~California State Indian Museum and other Indian matters touched~~
12 ~~upon by department programs.~~
- 13 ~~(g) To bring an action to prevent severe or irreparable damage~~
14 ~~to, or assure appropriate access for Native Americans to, a Native~~
15 ~~American sanctified cemetery, place of worship, religious or~~
16 ~~ceremonial site, or sacred shrine located on public property,~~
17 ~~pursuant to Section 5097.97. If the court finds that severe or~~
18 ~~irreparable damage will occur or that appropriate access will be~~
19 ~~denied, and appropriate mitigation measures are not available, it~~
20 ~~shall issue an injunction, unless it finds, on clear and convincing~~
21 ~~evidence, that the public interest and necessity require otherwise.~~
22 ~~The Attorney General shall represent the commission and the state~~
23 ~~in litigation concerning affairs of the commission, unless the~~
24 ~~Attorney General has determined to represent the agency against~~
25 ~~whom the commission's action is directed, in which case the~~
26 ~~commission shall be authorized to employ other counsel. In any~~
27 ~~action to enforce the provisions of this subdivision the commission~~
28 ~~shall introduce evidence showing that such cemetery, place, site,~~
29 ~~or shrine has been historically regarded as a sacred or sanctified~~
30 ~~place by Native American people and represents a place of unique~~
31 ~~historical and cultural significance to an Indian tribe or~~
32 ~~community.~~
- 33 ~~(h) To request and utilize the advice and service of all federal,~~
34 ~~state, local, and regional agencies.~~
- 35 ~~(i) To assist Native Americans in obtaining appropriate access~~
36 ~~to sacred places that are located on public lands for ceremonial or~~
37 ~~spiritual activities.~~
- 38 ~~(j) To assist state agencies in any negotiations with agencies of~~
39 ~~the federal government for the protection of Native American~~
40 ~~sacred places that are located on federal lands.~~



1 ~~(k) To mediate, upon application of either of the parties,~~
2 ~~disputes arising between landowners and known descendants~~
3 ~~relating to the treatment and disposition of Native American~~
4 ~~human burials, skeletal remains, and items associated with Native~~
5 ~~American burials.~~

6 ~~The agreements shall provide protection to Native American~~
7 ~~human burials and skeletal remains from vandalism and~~
8 ~~inadvertent destruction and provide for sensitive treatment and~~
9 ~~disposition of Native American burials, skeletal remains, and~~
10 ~~associated grave goods consistent with the planned use of, or the~~
11 ~~approved project on, the land.~~

12 ~~(l) To assist interested landowners in developing agreements~~
13 ~~with appropriate Native American groups for treating or~~
14 ~~disposing, with appropriate dignity, of the human remains and any~~
15 ~~items associated with Native American burials.~~

16 ~~SEC. 2.~~

17 *SEC. 30.* This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or safety
19 within the meaning of Article IV of the Constitution and shall go
20 into immediate effect. The facts constituting the necessity are:

21 In order to stem the continuing loss of sacred sites as soon as
22 possible, it is necessary that this act go into effect immediately.

